

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID H. KNIGHT,)	
Plaintiff)	
)	CIVIL ACTION
v.)	No. 03-410 Erie
)	
BUILDING MATERIALS)	
CORPORATION OF AMERICA d/b/a)	
GAF MATERIALS CORPORATION)	
and/or BUILDING MATERIALS)	
MANUFACTURING CORPORATION)	
and JOE RINDERLE,)	
Defendants)	

MOTION PURSUANT TO F.R.CIV.P. 56(f) FOR
DISCOVERY PENDING MOTION FOR SUMMARY JUDGMENT

NOW COMES the plaintiff, David Knight, by his attorneys, Law Offices of Timothy D. McNair, and respectfully moves this Honorable Court for an Order pursuant to F.R.Civ.P. 56(f) permitting supplemental discovery in connection with the currently pending Motion for Summary Judgment filed by the defendants, respectfully representing as follows.

1. Defendants filed a Motion for Summary Judgment, to which plaintiff responded.
2. Defendants have now filed further material with the Court including, *inter alia*, an Affidavit of Leonard Van Cise and an Affidavit of Joseph Rinderle.
3. Plaintiff disputes the facts set forth in the Affidavit of Leonard Van Cise and, in justice, should be permitted to take his deposition and examine his attendance records in order to determine whether or not the statements set forth in his Affidavit are true.

4. Plaintiff should further be permitted to take the deposition of Joseph Rinderle in order examine whether or not his calculations are more accurate than those of the plaintiff.

5. Plaintiff proposes to take said depositions within a 20-day period, assuming Mr. Van Cise is made available by the defendants. Plaintiff repeatedly attempted to contact Mr. Van Cise through the pendency of this matter, but Mr. Van Cise failed to respond and plaintiff was unable to serve him with a subpoena.

WHEREFORE, plaintiff respectfully moves this Honorable Court for leave to take depositions of Leonard Van Cise and Joseph Rinderle and to examine employment and attendance records of Leonard Van Cise maintained by the defendant.

Respectfully submitted,

LAW OFFICES OF TIMOTHY D. McNAIR

By: 

Timothy D. McNair, Esquire
Attorneys for Plaintiff
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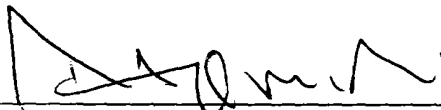
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of September, 2005, a copy of the foregoing Motion was served via U.S. first class mail, postage prepaid, upon the following:

Lisa Smith Presta, Esquire
MacDonald Illig Jones & Britton LLP
100 State Street, Suite 700
Erie, PA 16507.



Timothy D. McNair, Esquire